IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

K. Ram Mohan & Anr. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No.339/2006
against the order dated 7-12-2005 passed
by the Addl. Sessions Judge, Anoopgarh,
in Criminal Revision No.105/2002.

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Date of Order: November 07, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.K. Garg, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Mukesh Rajpurohit, for non-petitioner No.2.

BY THE COURT:

This criminal miscellaneous petition under Section 482 Cr.P.C. is directed against the order dated 7-12-2005 passed by the Additional Sessions Judge, Anoopgarh, district Sri Ganganagar (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 105/2002, whereby the revision petition filed by the petitioners against the order dated 21-8-1999 passed by the Judicial Magistrate, Anoopgarh, district Sri Ganganagar (for short, "the trial Court" hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

By the order dated 21-8-1999, the trial Court took cognizance of the offences under Sections 3 (K) (i) and 17 (i) (A) read with Section 29 (i) (A) of the Insecticides Act, 1968 (for short, "the Act" hereinafter) and issued process against the petitioners. That order came to be challenged by the petitioners before the Revisional Court and the Revisional Court dismissed the revision petition challenging the order of the trial Court taking cognizance of the offences.

It is contended by the learned counsel for the petitioners that the sample of insecticide was taken on 7.11.1998 and on being analysed by the Public Analyst, it was found mis-branded and the report of the Public Analyst was received by the petitioners on 12-1-1999. Thereafter the petitioners were served with a notice on 2-2-1999. The petitioners filed reply to the notice on 13-2-1999. The said sample was manufactured in August 1998 and its expiry date was July, 2000. The complaint was filed before the trial Court on 21-8-1999.

It is contended by the learned counsel for the petitioners that the sample was not sent to the Central Laboratory for second analysis and, therefore, the order taking

cognizance, as also the impugned order of the Revisional Court are bad in law.

So far as the order dated 21-8-1999 passed by the trial Court taking cognizance of the offences is concerned, it has nothing to do with second analysis by the Central Laboratory. Before expiry of the life of the sample, the complaint was filed by the non-petitioner No.2 in the Court. The petitioners were well informed in time regarding the sample taken from them being found misbranded by the Public Analyst. Thus, the petitioners were made aware of the report of the Public Analyst. If the petitioners did not move the trial Court for sending the sample to the Central Laboratory, as envisaged under Section 24 (4) of the Act within the stipulated period by depositing the requisite amount, the complainant cannot be blamed for the same. In my view, the trial Court was justified in taking the cognizance of the offences and the Revisional Court was justified in dismissing the revision petition.

Before me, both the orders passed by the trial Court and the Revisional Court are under challenge. In my view, the trial Court was justified in taking the cognizance of the offences and issuing process against the petitioners and the Revisional Court was justified in not finding any error in the order of the trial Court. No case for interference in the inherent jurisdiction is made out.

The criminal miscellaneous petition is, therefore, dismissed. However, it is open for the petitioners to raise all such objections before the trial Court at an appropriate stage.

(H.R. PANWAR), J.

mcs